IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

FIRST APPEAL NO.572 OF 1997.

The State of Maharashtra : Appellants.

versus

Bhika Karbhari Thakare & Anr. : Respondents.

Mr.B.R.Pati, AGP, for the State.

None for the respondents.

CORAM : D.G.DESHPANDE,J.

DATED : 9th March 2005.

ORAL ORDER

1. Heard learned AGP for the State. Nobody is present for the respondents though they are served. This appeal is filed by the State against the order of the Reference Court awarding compensation at the rate of Rs.15,000/- per hectare to the claimants in respect of their acquired land which was 96 ares. The notification under Section 4 of the Land Acquisition Act was dated 5th September 1985, and

the SLAO passed Award on 5th September 1988. The possession of the land was taken on 6th June 1982. Therefore, the AGP firstly contended that the claimants would not be entitled to interest as awarded by the Reference Court, because the possession taken 3 years before the notification under Section 4. Secondly he contended that the compensation at the rate of Rs.15,000/- is exorbitant.

2. So far as compensation aspect is concerned, the Reference Court relied upon a sale deed which was in respect of 28 ares of bagayat land and the rate was Rs.21,000/- per hectare. The court adopted ratio of 4:3 i.e. if the price bagayat land is Rs.4/- , then price of jirayat land should be Rs.3/- and, on that basis and, then giving deductions to the small area of 28 area, which was the subject matter of the earlier sale deed dated 17th March 1983, came to the conclusion that proper price would be Rs.15,000/- per hectare.

. I do not find anything wrong in this reasoning and conclusion of the Reference Court. The approach of the Reference Court is proper in

these circumstances and, therefore, on this count the submissions of the AGP cannot be accepted.

3. However, so far as interest part is concerned, it is proved from the fact that the date of notification under Section 4 is 5th September 1985 and, the possession was taken on 6th June 1982. Therefore, the claimants would not be entitled to the interest during this period. This submission made on the basis of the judgment of Supreme Court reported in **(2002) 4 SCC 79 (R.L.Jain (D) by LRs. v/s. DDA and ors.)**. This judgment is squarely applies to the facts of the present case. Hence the following order :-

:ORDER:

The appeal is partly allowed.

The order of compensation awarded by the Reference Court is not disturbed. However, the order about grant of interest to the claimant is set aside.

No order as to costs.

[D.G.DESHPANDE]

09/03/2005 JUDGE.